

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 20-0405V

UNPUBLISHED

NEVA BERNIER,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: September 13, 2021

Special Processing Unit (SPU);  
Ruling on Entitlement; Concession;  
Table Injury; Tetanus Diphtheria  
acellular Pertussis (Tdap) Vaccine;  
Shoulder Injury Related to Vaccine  
Administration (SIRVA)

*Leah Durant, Law Offices of Leah V. Durant, PLLC, Washington, DC, for Petitioner.*

*Althea Davis, U.S. Department of Justice, Washington, DC, for Respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

On April 8, 2020, Neva Bernier filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that the experienced bilateral shoulder injury related to vaccine administration (SIRVA) resulting from Tdap, pneumococcal, and meningococcal B vaccinations received on March 26, 2019. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On September 13, 2021, Respondent filed his Rule 4(c) report in which he concedes that Petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 1. Specifically, it is Respondent’s position that Petitioner has satisfied the

<sup>1</sup> Because this unpublished Ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the Ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

criteria set forth in the Vaccine Injury Table and the Qualifications and Aids to Interpretation. *Id.* at 7. Respondent further agrees that Petitioner had no history of pain, inflammation, or dysfunction in her shoulders; Petitioner's pain and reduced range of motion occurred within 48 hours of receipt of an intramuscular vaccinations; Petitioner's symptoms were limited to the shoulders in which the vaccines were administered; and no other condition or abnormality was identified to explain her symptoms. *Id.*

**In view of Respondent's position and the evidence of record, I find that Petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**

Brian H. Corcoran

Chief Special Master